

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 23-01429-CJC (ADSx)

Date: January 31, 2024

Title: BALBOA CAPITAL CORPORATION v. LAKE TRANSPORT LLC, et al.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Rolls Royce Paschal
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

**PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE WHY
JUDGMENT SHOULD NOT BE SET ASIDE FOR FRAUD ON THE COURT
AND WHY THIS CASE SHOULD NOT BE DISMISSED FOR LACK OF
SUBJECT MATTER JURISDICTION**

On November 9, 2023, this Court granted Plaintiff Balboa Capital Corporation’s application for default judgment and entered judgment in excess of \$200,000. (*See* Dkt. 24–25.) The Court took Balboa’s allegations as true that it is a California corporation with its principal place of business in Orange County, California and found that there was diversity jurisdiction here because Defendants reside in Georgia. (*See* Dkt. 1 ¶ 1; Dkt. 24 [Order Granting Default J].)

Recently, however, Balboa—specifically “Ameris Bank d/b/a Balboa Capital Corporation”—filed another lawsuit that is pending before this Court. *See* Case No. 8:23-cv-02302-CJC, Dkt. 1 ¶ 1. In that case, Balboa alleges that “Plaintiff Ameris Bank d/b/a Balboa Capital Corporation (“Balboa” or “Plaintiff”) is, and at all times relevant to this action was, **a Georgia state-chartered** banking corporation with Balboa Capital Corporation as one [of] its divisions, which division has its principal place of business in the State of California, County of Orange.” *See id.* (emphasis added). Evidence submitted in this case also indicates that Balboa acts as a division of Ameris Bank. (*See, e.g.,* Dkt. 1-1 [Financing and Related Agreements].) On this basis, the Court has come to

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realize that it may not have had jurisdiction to enter a judgment in this case since there would not be diversity jurisdiction if both Balboa and Defendants are citizens of Georgia.

Accordingly, the Court **ORDERS** that **by Friday, February 2, 2024** Balboa shall file a response to this order to show cause addressing why the judgment in this case should not be set aside for fraud on the Court under Federal Rule of Civil Procedure 60 and why the case should not be dismissed for lack of subject matter jurisdiction. Balboa's response must include evidence of its corporate citizenship, including relevant filings with the California and Georgia Secretaries of State. Should Balboa not file a timely response to this OSC, the judgment shall be set aside, and this case shall be dismissed.

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Initials of Deputy Clerk RRP